THE APPLICATION OF TREATY BENEFITS TO PARTNERSHIPS: CHARACTERIZATION OF A FOREIGN ENTITY

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In many cases, taxpayers use partnerships in both domestic and international tax-planning structures. As a result of the increase in global commerce, a number of these structures incorporate both domestic and foreign partnerships. This article examines the application of tax treaties in this context, focusing on issues associated with the characterization of a foreign entity as recommended by the Organisation for Economic Co-operation and Development (OECD), particularly from a Canadian tax perspective. A subsequent article, which will be published in a later issue of this journal, will present a number of practical examples to illustrate some of the problems that can arise in the application of the OECD’s recommended approach.

KEYWORDS: PARTNERSHIPS ■ TAX TREATIES ■ OECD ■ RESIDENCY ■ DOUBLE TAXATION

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